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Memorandum Endorsement

Javier Cesario and Fernando Martinez v. BNI Construction
Inc., Mikial Abdur-Rahim, and Musa Last Name Unknown, 07
Civ. 8545 (LLS)

Plaintiffs move for a judgment by default against defendants pursuant to Fed. R. Civ. P. 55 and S.D.N.Y. Local Civ. R. 55.2.

It sufficiently appears that defendants were properly served with copies of the summons and complaint, none of them has answered the complaint, the time for answering has expired, and that judgment for plaintiffs should be entered on default.

The claims alleged in the complaint are respectfully referred to Magistrate Judge Gorenstein pursuant to 28 U.S.C. § 636(b)(1)(A) to hear and determine the amount of damages — including unpaid overtime compensation, unpaid spread of hours payments, unpaid wages (for plaintiffs' primary and additional work), and liquidated damages and interest — that he recommends be awarded to plaintiffs, together with the amounts of any reasonable attorneys' fees and costs sought by plaintiffs.

So ordered.

Dated: July 14, 2008
New York, New York

Louis L. Stanton
Louis L. Stanton
U.S.D.J.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JAVIER CESARIO and
FERNANDO MARTINEZ,

Plaintiffs,

v.

BNI CONSTRUCTION, INC.,
MIKIAL ABDUR-RAHIM and
MUSA LAST NAME UNKNOWN,

Defendants

Case No. 07 Civ. 8545 (LLS)

**REQUEST TO ENTER
DEFAULT OF
DEFENDANTS**

TO THE CLERK OF THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK:

Plaintiffs Javier Cesario and Fernando Martinez respectfully request that the default of defendants BNI Construction, Inc., Mikial Abdur-Rahim and Musa Last Name Unknown (collectively, "Defendants") for failure to plead or otherwise defend in a timely manner be entered on the docket pursuant to Rule 55(a) of the Federal Rules of Civil Procedure and Local Civil Rule 55.1 of this Court.

This request is based on the Declaration of Kenneth E. Coughlin filed herewith, which shows that:

1. Defendants BNI Construction, Inc., Mikial Abdur-Rahim and Musa Last Name Unknown were served with the Summons and Complaint on October 25, 2007, October 30, 2007, and December 28, 2007, respectively.
2. The proofs of service filed with this Court on November 2, 2007 and January 3, 2008 establish that service on Defendants was proper pursuant to Rule 4(e)(1) of the Federal Rules of Civil Procedure. Filed copies of the proofs of service are attached to the Declaration of Kenneth E. Coughlin as Exhibits A, B and C.
3. Defendants have failed to plead or otherwise respond to the Summons and Complaint.
4. The applicable time limits for Defendants to respond to the Complaint have expired.

5. Defendant BNI Construction, Inc. is a domestic business corporation incorporated in the State of New York with its principal place of business in New York, New York.

6. Defendants Mikial Abdur-Rahim and Musa Last Name Unknown are not infants or incompetent people.

7. Defendants Mikial Abdur-Rahim and Musa Last Name Unknown are not in the military service.

Dated: February 7, 2008

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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JAVIER CESARIO and
FERNANDO MARTINEZ,

Plaintiffs,

v.

BNI CONSTRUCTION, INC.,
MIKIAL ABDUR-RAHIM and
MUSA LAST NAME UNKNOWN,

Defendants.

Case No. 07 Civ. 8545 (LLS)

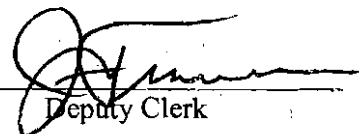
**CERTIFICATE OF
DEFAULT**

I, J. Michael McMahon, Clerk of Court of the United States District Court for the Southern District of New York, do hereby certify that none of the defendants, BNI Construction, Inc., Mikial Abdur-Rahim or Musa Last Name Unknown, have answered or otherwise responded to the Summons and Complaint herein. The default of said defendants is hereby noted pursuant to Rule 55(a) of the Federal Rules of Civil Procedure and Local Civil Rule 55.1 of this Court.

DEFTS WERE SERVED 10/25, 26, 31, 2007
Dated: New York, New York

2/13/, 2008

J. MICHAEL McMAHON
Clerk of Court

By: 
Deputy Clerk